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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
ROBERTS, BRIAN S				
ART UNIT		PAPER NUMBER		
2466				
NOTIFICATION DATE		DELIVERY MODE		
01/26/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/583,098

Applicant(s)

BOEHNKE ET AL.

Examiner

BRIAN ROBERTS

Art Unit

2466

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 January 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Daniel J. Ryman/
Supervisory Patent Examiner, Art Unit 2466

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 01/14/2011 have been fully considered but they are not persuasive.

1) On page 2-3 of the Remarks, the applicant contends that MacLellan fails to teach or suggest "a second master node wherein the second master node is configured to provide an electromagnetic field to allow MBS, and the first master node is configured to receive the data from the first passive transmitter when the second master node provides the electromagnetic field".

The Examiner respectfully disagrees. As detailed in the final office action, MacLellan et al. teaches a first and a second master node (i.e. Interrogators 103; see Figure 1, col. 2 lines 54-64). The second master node is configured to provide an electromagnetic field to allow MBS (i.e. Interrogator provides a signal which a Tag utilized for MBS; col. 2 lines 65 - col. 3 line 13, col. 3 lines 37-40), and the first master node is configured to receive data from a Tag when the second master node provides the electromagnetic field (Interrogators 103 overlap in coverage and more than one Interrogator may receive successfully receive an uplink message from a specific Tag; see col.6 lines 11-23)

2) On page 3 of the Remarks, the Applicant contends that the advantage of the claimed configuration of the present invention is in no way analogous to the object of MacLellan, which is to assure complete radio coverage.

The Examiner notes that whether MacLellan teaches or suggest the same advantages of the claimed function does not have bearing on whether MacLellan teaches or suggest the claimed function. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

3) On page 4, of the Remarks, the Applicant the applicant contends that MacLellan fails to disclose that the signal sent from one interrogator to the tag is intended for another interrogator. The Applicant further states that in view of MacLellan's object of complete radio coverage, it does not make sense to have a first interrogator 103 send a signal to the tag 105 to have it modulated by the tag 105 and received by a second interrogator 103, because the first interrogator 103 is already in radio range of the tag 105. Although MacLellan describes that an uplink message from a specific tag 105 may be successfully received by multiple interrogators 103 as mentioned above, if the first interrogator 103 would not be in range of receiving the signal of the tag 105, the interrogator 103 would not send a signal in order to have a second interrogator 103 receive the modulated tag signal. Radio coverage would not be achieved by this circumstance, and it would be meaningless to have every interrogator 103 transmit signals not knowing whether there exists a tag 105 to receiving the signal.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the signal sent from one interrogator to the tag is intended for another interrogator) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore in regard to the applicants described circumstance, the radio range between a first interrogator and tag may change due to change in propagation characteristics in the environment. Thus, a tag could receive a signal from a first interrogator but the first interrogator may not be able to receive a signal from the tag. Having a second interrogator configured to also receive the signal from the tag allows the signal to still be received in the event that the first interrogator was out of range due to change in propagation characteristics in the environment.